IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.630 OF 2006

Shri Rajpatprasad Sitaram Arakh, Petitioner. (Complainant)

Vs

1. The Chairman,
Messrs Cholamandal Investment
and Finance Co Ltd and ors. Respondents.
Rajpatprasad S.A., petitioner in-person.
Mr V.Mannadiar, Adv in-person- respondent 12.
Mr V.Mannadiar i/b M/s Mannadiar & Co. for R.No.1.
Mr Goel for respondent no.11.
Mr Manoj Chatage i/b Mr T.J.Pandian, for respondent nos 13 to 14.
Ms Cashmira Nanavolty in-person for R.no.14(J)
Mr J.C.Satpute, for respondent-CBI.
Mrs S.D.Shinde, Addl.Public Prosecutor for the respondent-State.

CORAM : SMT.RANJANA DESAI & D.B.BHOSALE,JJ.
DATED : 26th APRIL, 2007

PC:

1. This writ petition under Articles 226 and 227 of the Constitution of India is filed and argued by the petitioner-in-person for the following reliefs:

> "(a) This Hon'ble Court be pleased to set aside the order passed by Principal Judge, Sessions Court, Mumbai in Misc.Application No.1234 of 2005 on 2nd February 2006 and Misc. Application No.1064 of 2005 in Transfer Application No.695 of 2005 on 2nd February 2006 and in Transfer Application No.695 of 2005 on 23rd September,2005 and issue a proper direction;
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> (b) This Hon'ble Court be pleased to issue appropriate direction to the Principal

Sessions Judge, to take legal action against the respondents for filing false affidavits in the present case;

(b-1) and/or this Hon'ble Court be pleased to take legal action against the respondents for filing false affidavit in the present case.

(c) This Hon'ble Court be pleased to issue appropriate direction transferring the Criminal Revision No.909 of 2004 to the Court of Presiding His Honour Judge Shri K.U.Chandiwal, HHJ Shri J.L.Deshpande or His Honour Judge P.D.Vishwasrao instead of Court Room No.21 presently pending which is presided by HHJ Shri N.P.Dalvi;

(d) This Hon'ble Court be pleased to issue appropriate directions to the respondents to pay compensation of Rs. 6 crores for causing mental torture and harassment to the petitioner in the present case."

2. We have heard the petitioner-in-person for quite some time. All throughout, he was referring to and taking us through several documents annexed to the Revision Application No.909 of 2004 filed and pending before the Sessions Court and submitted that the respondents including advocates appearing for the parties in the proceedings have misled the courts by making false/incorrect statements in the affidavits/applications and obtained orders from all the Courts including the Supreme Court.

3. The orders impugned in the prayer clause (a) are made on three different applications filed by the petitioner in the aforesaid revision application pending in the Sessions Court. The revision is

directed against the order of the learned Metropolitan Magistrate dismissing a private complaint filed by the petitioner on 10.12.2001. The private complaint was filed by him against the three accused, namely, K.V.Balaji (respondent no.2), Vaman Kamat (respondent no.3) and the company in its corporate name under sections 485, 488, 471, 506, 408, 419, 472 and 420 read with 34 of IPC. In the said complaint, the Magistrate had initially passed an order under section 156(3) of the Code of Criminal Procedure and on the basis of the report submitted by the police after investigation, dismissed the complaint on 3.3.2004. Against this order, the petitioner filed the aforesaid revision in September, 2004 challenging the order of the learned Magistrate dated 3.3.2004. Though the complaint was initially filed only against the three accused, the revision is directed against 15 respondents including the advocates who appeared for and against the petitioner. The names of the advocates were arraigned as the respondents in the revision by making allegations against them of committing fraud on the court. The nature of the allegations are that several written and oral misleading statements were made by the learned counsel for the parties in the proceedings arising out of the civil suit filed and pending before this court at different stages to which the petitioner drew our

attention in the course of hearing. The revision is still pending before the Sessions Court.

4. In the revision, the petitioner filed three applications referred to in prayer clause (a). First being, Misc.Application No. 1234 of 2005 in Criminal Application No.1064 of 2005 in Criminal Revision Application No.909 of 2004. This application came to be disposed of by an order dated 2.2.2006. In this application, the petitioner prayed for leave to amend the Criminal Application No.1064 of 2005 seeking permission to add M.A.Alagappan, Chairman of respondent no.1-company, as also other directors as respondents therein. This application was dismissed with liberty to the petitioner to adopt appropriate proceedings before the concerned revisional court in Criminal Revision Application No.909 of 2004 to make the proposed respondents as parties. Admittedly, they are not made parties in the criminal revision application. We find absolutely no merit in the challenge to this order and, in our opinion, this order does not cause any prejudice to the petitioner. He will have an opportunity to make similar prayer for adding these persons as party respondents in the main Criminal Revision Application No.909 of 2004.

5. The second order, impugned in the present writ

petition, dated 2.2.2006 was passed on Misc. Application No.1064 of 2005 in Transfer Application No.695 of 2005. In this application, he sought modification and/or correction of a date of the order which was wrongly typed as 2.8.2004 instead of 2.8.2005. He also prayed for condonation of delay. It appears, his prayer seeking modification/ correction of the date was allowed by the learned Judge and even the prayer for condonation of delay was also granted. His prayer (c) in the application seeking interim relief pending hearing and final disposal of Application No.1064 of 2005 was, however, disposed of as infructuous. We fail to understand as to why the petitioner has challenged this order in the instant writ petition. We find no fault with the order and in view thereof this prayer also must be rejected.

6. The third order dated 23.9.2005 passed on the Transfer Application no.695 of 2005 also deserves to be confirmed. It appears from the observations made in the order and the other record placed before us that merely because the learned Judge did not issue nonbailable warrant against the respondents he sought transfer of the revision to a particular Judge. The petitioner wanted the learned Judge to issue nonbailable warrants against the respondents since

they did not remain present in the court on the date of hearing. We perused the order. In our opinion, the order cannot be faulted for the reasons stated therein. It may also be noticed that while disposing of Transfer Application No.909 of 2004, the learned Principal Judge of the City Civil court has observed that it is open for the applicant to apply before the revisional court seeking appropriate direction to secure presence of the respondents at the time of hearing of the case. In the transfer application no personal grievance is made against the court and in the circumstances the learned Judge for the reasons recorded therein has rightly rejected the said application. In our opinion, none of these orders deserve interference by this court in its extremely limited writ jurisdiction under Article 227 of the Constitution of India. Similarly, we do not find any reason to exercise jurisdiction under Article 226 of the Constitution of India and grant other prayers in this petition. All other prayers are misconceived and devoid of any merits. In the circumstances, even the prayer clause (b), (b-1), (c) and (d) also stand rejected.

7. It may be noticed that the petitioner has filed civil suit bearing no. 3835 of 1999 in this court and it is still pending for hearing. In this

suit, after the interim relief was refused, the matter went right upto the Supreme Court and the petitioner lost in all the courts. Even after dismissal of the SLP in limine, the petitioner made several efforts by filing applications before this court seeking reliefs and in all the applications this court has passed orders from time to time, dismissing his prayers made therein. It may be noticed that this Court, while disposing of one of the applications, namely Review Application No.63 of 2000, observed that "this is one more misconceived proceeding taken out in the desperate hope that the court might inadvertently make a favourable order". Similarly, at one stage, the petitioner in August 2004 also made an application for CBI inquiry against the learned Judges of this Court since he was aggrieved by the order passed by the learned Single Judge dated 20.7.2004 in Notice of Motion No.1266 of 2004. It is thus clear that the petitioner is in the habit of filing misconceived applications in different proceedings filed by him and pending before different courts. As of today, his criminal revision application in the Sessions Court and the civil suit in the High Court are still pending. It would be more appropriate for the petitioner to prosecute these two proceedings instead of filing applications with misconceived prayers and wasting his and courts time in prosecuting such

frivolous applications. We thought of saddling him with heavy cost, but we have avoided to do so in view of the fact that the petitioner is appearing in person. We have also found that he has made unnecessarily the advocates appearing in these proceedings, for and against him, as party respondents making allegations against them which, in our opinion, are unfounded and baseless. Even if it is assumed that false/incorrect/misleading statements are made in the proceedings, the concerned courts are capable enough to take appropriate action/proceedings against the contesting parties who instruct the advocates. For no reason the petitioner has implicated the advocates as party respondents in these proceedings. We have also noticed that though initially the criminal complaint was filed only against three accused, in his revision he arraigned 15 respondents including advocates as party respondents. He has not spared even the advocates who appeared in the Supreme Court in these proceedings. In the circumstances, this writ petition is dismissed.

8. The Sessions Court shall endeavour to dispose of Revision Application No.909 of 2004 as expeditiously as possible and preferably within a period of four months from the date of receipt of this order. If the petitioner files any other application

and if the application has no bearing on the merits of the main revision application, the learned Judge need not stay hearing of the Revision Application and shall dispose of the same within the timeframe. It would be open for the learned Judge, hearing the revision application, to pass appropriate orders on such application, if any, filed by the petitioner and dispose of the same along with the revision application. We also observe that the petitioner should avoid making applications with misconceived prayers and should go on with hearing of the revisions and see that it is disposed of within the timeframe. The respondents are also directed to cooperate. The petition is disposed of.

(D.B.BHOSALE,J.) **(SMT.RANJANA DESAI J.)**